

MINUTES OF THE CITY OF BURLINGTON
CITY COUNCIL MEETING
FEBRUARY 16, 2010

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on February 16, 2010, at 7:00 p.m.

Mayor Ronnie K. Wall presided

Councilmembers Present: Mayor Wall, Councilmembers Huffman,
Butler, Ross (entered late) and Faucette

Councilmembers absent: None

Harold Owen, City Manager: Present

Robert M. Ward, City Attorney: Present

Jondeen D. Terry, City Clerk: Present

CALL TO ORDER: Mayor Ronnie K. Wall

INVOCATION: Councilmember Jim Butler

REPORT: Ms. Cindy Brady, president, United Way, thanked City staff and City Council for its leadership in the 2009 campaign. The City contributed almost \$52,000 and had an 86% participation rate. She recognized the City for receiving the first Dave Knotts' Participation Award and the Gold Award. Mayor Wall congratulated Ms. Joan Kimbro and thanked her for her leadership in the City United Way Campaign. Ms. Kimbro said that City employees were dedicated and realized needs in the community.

MINUTES

Mayor Wall called for approval of the minutes of the December 1, 2009, closed session; January 20, 2010, Special City Council meeting; January 28, 2010, Council Retreat; and the February 2, 2010, City Council meeting.

Upon motion by Councilmember Butler, seconded by Mayor Pro Tem Huffman, it was resolved unanimously to approve the above-referenced minutes.

ADOPTION OF AGENDA

Upon motion by Councilmember Butler, seconded by Councilmember Faucette, it was resolved unanimously to adopt the agenda.

CONSENT AGENDA:

- A) To approve a temporary moratorium regarding City Ordinance 23-24(B) "Noise Ordinance" for 180 days beginning March 15, 2010. The North Carolina Department of Transportation will be resurfacing Huffman Mill Road from 500' south of I-85/40 to South Church Street and Webb Avenue (NC 87) from Flora Avenue to Gilmer Street during the night-time hours.
- B) To approve a request from Front Street United Methodist Church to hold a triathlon on Saturday, July 24, 2010, at Lake Cammack Marina. Permission is also required from the North Carolina Department of Environment and Natural Resources (NCDENR)-Public Water Supply Section. The petitioner will be required to provide lifeguards.
- C) To set a date of public hearing for March 2, 2010, to consider a Riparian Buffer Protection Ordinance.

Upon motion by Councilmember Faucette, seconded by Mayor Pro Tem Huffman, it was resolved unanimously to approve the foregoing consent agenda.

NEW BUSINESS:

ITEM 2: ADOPT A POLICY - FILLING VACANT COUNCIL SEAT

Mayor Wall announced Council would consider adoption of a policy to be used when filling a vacant City Council seat. He said he had met with Attorney Ward and prepared a written procedure.

Councilmember Faucette stated that Council had put a plan in action that was more transparent and should satisfy the citizens of Burlington. He said that North Carolina General Statutes (NCGS) 160-A(3) clearly states that the vacancy should be filled by the appointment of Council. He added that a third place person in the previous election would have an opportunity to submit a letter of interest and that fact should weigh on Council's decision if he/she met other requirements.

Councilmember Butler concurred with Councilmember Faucette about transparency. He said considering the third highest vote-getter did have merit but that ultimately the burden lies with Council to select the candidate who could meet the needs of the City at that time. Councilmember Butler stated it was good to have a policy in writing that would substantiate the statute.

Mayor Wall read the policy as follows:

POLICY ADOPTING PROCEDURE FOR FILLING
VACANT SEAT ON CITY COUNCIL

1. If there is a vacancy on the City Council after election or qualification, or if any member of the City Council shall be unable to discharge the duties of his/her office, the Council shall choose some person for the unexpired term.
2. The City Council adopts the following policy for filling said vacant seat:
 - (a) When a vacancy occurs on the City Council, said vacant seat will be advertised once a week for two successive weeks requesting letters of interest from qualified voters and residents of the City who are interested in serving the City and filling said vacant Council seat.
 - (b) Said letters of interest shall be submitted not later than ten (10) days after the last advertisement to the City Clerk, 425 South Lexington Avenue, PO Box 1358, Burlington, NC 27216-1358.
 - (c) The remaining City Councilmembers shall review all letters of interest submitted and shall select three (3) applicants from those applications submitted.
 - (d) The remaining City Councilmembers shall then schedule personal appearances and interviews of said three (3) applicants at a subsequent work session of the City Council.
 - (e) Not later than this first monthly meeting of the City Council following the conclusion of the interviews of said applicants, the City Council shall consider placing selected applicants' names in nomination for appointment to fill said vacant

Council seat. Nominees shall be voted on in alphabetical order according to their last names, and the first nominee to receive three (3) votes shall be deemed selected to fill said vacant Council seat.

3. The member of City Council so selected shall have all the powers and duties of regularly elected member of council.
4. This foregoing procedure shall become effective upon the adoption of this policy by the City Council.

Councilmember Faucette suggested that citizens read NCGS 160-A(3) and that it would be evident that Council was complying with the law.

Mayor Wall reiterated that citizens wanted to know what to expect and that the procedure created more transparency and avoided secrecy. He pointed out that everything would be done in an open meeting.

(Councilmember Ross entered the meeting.)

Upon motion by Councilmember Butler, seconded by Councilmember Faucette, was resolved unanimously to adopt the policy.

STAFF REPORTS:

Mayor Wall announced that Water Resources Director Bob Patterson and Stormwater Manager Michael Layne would give an update on the Jordan Lake Rules.

Mr. Patterson stated that B. Everett Jordan Lake was impounded in 1983 and that it was declared nutrient sensitive water by the Environmental Management Commission (EMC) the same year. He explained that Jordan Lake was commissioned as a water quality/quantity control measure, recreation facility, aquatic life habitat, and water supply reservoir and that it became a Regional Water Supply Reservoir for Cary. He said it was consistently rated as atrophic or hyper-atrophic due to high nitrogen and phosphorus levels which created the need for the Jordan Lake Rules. Mr. Patterson summarized the rule-making process and stated the goal of the rules was to obtain an eight percent reduction in nitrogen and five percent reduction in phosphorus throughout the Haw River Subwatershed. Mr. Patterson reviewed current efforts and stated that upgrades should be

completed by 2014 which would give time to optimize plants before the 2016 deadline. Mr. Patterson stated that the project financing was a collaborative effort between the Finance Department, Water Resources Department and financial and engineering consultants. Mr. Patterson said that the best financing option would be to issue revenue bonds secured by rate structure. Mr. Patterson stated that a rate increase would be necessary to pay for upgrades and to insure adequate funds to pay debt services. He said that to minimize the rate impact on customers, an anticipated 15% increase would be spread over a three-year period. Mr. Patterson stressed that the financing only covered major capital projects, that it did not reflect other capital needs at water treatment plants, the water distribution system, or sanitary sewer collection system. He also said it did not reflect possible inflationary increases in costs such as power, chemicals, maintenance, etc. He stated that he hoped to see significant energy savings.

Mayor Pro Tem Huffman pointed out that there should be a separate line on utility bills that would indicate the charges were a result of the Jordan Lake Rules. He stated that this was the most severe unfunded mandate that the City had ever had to pay.

Mr. Layne reviewed the effects of non-point source (runoff from rainfall) regulations. He outlined the new development rule, existing development rule and Riparian buffer protection rule which would be the most cost-effective measure. He explained that it would require a 50' buffer on most streams located within the City, 30' undisturbed and 20' managed (vegetated). He said a model ordinance had been provided by the North Carolina Department of Environmental and Natural Resources (NCDENR) and that a draft was to be submitted to NCDENR by March 10, 2010.

City Manager Owen pointed out that that if a citizen has a stream, it will be the owner's responsibility to maintain it.

CBC REPORT

Mayor Wall announced that Assistant Director of Planning Services David Beal would give an update on the Connecting Burlington Communities (CBC) program.

Mr. Beal stated that CBC had completed another successful year in 2009. He explained that CBC was a program designed to assist citizens in reporting issues in their neighborhoods that needed attention such as high grass, junked lots, junked vehicles, gang activity, and non-operating street lights. He said the program takes the guesswork out of trying to find the

proper department to deal with a particular issue by having one central phone number, 222-5024, one central e-mail, or one link on the City's website, www.BurlingtonNC.gov/CBC.

He said that in 2009, staff saw a total of 716 tips reported to CBC in the form of tip cards, online reports, or phone calls. He explained that the bulk of tips came in during the spring and summer months, and most of those tips dealt with high grass. He said it represented an approximate 11.5% increase over 2008's total of 644 tips. He reported that of the 716 tips reported, only 108 remain open which means 84% were cleared.

He explained that the City still operates without a CBC department or an official CBC employee. Staff members in various departments assist with tips as they come in and are assigned, and these are dealt with in the regular course of work in each department. Mr. Beal gave a public "Thank you" to Renee Ward in the manager's office for coordinating much of the CBC information as it comes in and making things easier for each department.

Mr. Beal stated that since beginning this program in the last quarter of 2007, CBC had been and is a success and that as the program continues to evolve and improve, it will continue to be successful with both citizen input and City cooperation.

PUBLIC COMMENT PERIOD

There were no public comments.

CITY COUNCIL COMMENTS

There were no Council comments.

ADJOURN:

Upon motion by Mayor Pro Tem Huffman, seconded by Councilmember Butler, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk

